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8 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. AC-2009-37

12 **BOLIVAR EDUARDO RODRIGUEZ**
13 8405 Pershing Drive, #301
14 Playa Del Rey, CA 90293

A C C U S A T I O N

15 Certified Public Accountant
Certificate No. 33631

16 And

17 **STUMP DAVIS GREENBERG**
ACCOUNTANTS INC.,
18 **BOLIVAR EDUARDO RODRIGUEZ,**
Sole Owner
19 8405 Pershing Drive, #301
20 Playa Del Rey, CA 90293

21 Certified Public Accountancy
Corporation No. 1607

22 Respondent.

23
24 Complainant alleges:

25 PARTIES

26 1. Patti Bowers (Complainant) brings this Accusation solely in her official capacity as
27 the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs.
28

2. On or about December 4, 1981, the California Board of Accountancy issued Certified Public Accountant Certificate Number 33631 to Bolivar Eduardo Rodriguez (Respondent Rodriguez). The Certified Public Accountant Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2010, unless renewed.

3. On or about January 20, 1981, the California Board of Accountancy issued Certified Public Accountancy Corporation Number 1607 to Stump Davis Greenberg Accountants Inc. (Respondent Corporation), with Bolivar Eduardo Rodriguez (Respondent Rodriguez) as sole shareholder of the corporation effective January 15, 1987. The Certified Public Accountancy Corporation was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2011, unless renewed.

JURISDICTION

4. This Accusation is brought before the California Board of Accountancy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

5. Section 5100 states:

"After notice and hearing the board may revoke, suspend, or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

• • •

"(c) Dishonesty, fraud, gross negligence, or repeated negligent acts committed in the same or different engagements, for the same or different clients, or any combination of engagements or clients, each resulting in a violation of applicable professional standards that indicate a lack of competency in the practice of public accountancy or in the performance of the bookkeeping operations described in Section 5052.

• • •

"(g) Willful violation of this chapter or any rule or regulation promulgated by the board under the authority granted under this chapter.

1
2 6. Section 5062 of the Code provides that a licensee shall issue a report which conforms
3 to professional standards upon completion of a compilation, review or audit of financial
4 statements.

5 7. California Code of Regulations, title 16, section 58, provides that licensees
6 engaged in the practice of public accountancy shall comply with all applicable professional
7 standards, including but not limited to generally accepted accounting principles and generally
8 accepted auditing standards.

9 8. California Code of Regulations, title 16, section 52, provides that
10 "(a) A licensee shall respond to any inquiry by the Board or its appointed
11 representatives within 30 days. The response shall include making available all files, working
12 papers and other documents requested."

13 ...
14 "(d) A licensee shall provide true and accurate information and responses to questions,
15 subpoenas, interrogatories or other requests for information or documents and not take any action
16 to obstruct any Board inquiry, investigation, hearing or proceeding."

17 9. Section 5107 states:

18 "(a) The executive officer of the board may request the administrative law judge, as part
19 of the proposed decision in a disciplinary proceeding, to direct any holder of a permit or
20 certificate found to have committed a violation or violations of this chapter to pay to the board all
21 reasonable costs of investigation and prosecution of the case, including, but not limited to,
22 attorneys' fees. The board shall not recover costs incurred at the administrative hearing.

23 FIRST CAUSE FOR DISCIPLINE

24 **(Gross Negligence and Repeated Negligent Acts)**

25 10. Respondent Rodriguez is subject to disciplinary action under Business and
26 Professions Code section 5100, subsection "c" for unprofessional conduct due to his multiple acts
27 of gross negligence and/or repeated negligent acts in failing to complete and file requisite
28

1 financial and tax documents in a timely manner for client Amalgamated Transit Union No. 1277
2 for tax years 2000 through 2006 as follows:

3 A. At all times between 1979 and late 2007, Respondent was continuously engaged as
4 the Certified Public Accountant (CPA) for Amalgamated Transit Union Local No. 1277
5 ("Union"). He was discharged in late 2007. Respondent's failure to timely complete and file
6 significant tax and financial documents on the Union's behalf for the tax years between 2000 and
7 2006 was discovered by Union representatives after he was discharged.

8 B. As CPA for the Union, Respondent's responsibilities included but were not limited to,
9 preparation of monthly financial reports (including balance sheet, statement of income and
10 expenses, general ledger and revenue and expenditures statement) and bi-annual internal audit
11 reports, and preparation and filing of all state and federal tax returns, including Internal Revenue
12 Service (IRS) Form 990 (Return of Organization Exempt from Income Tax) and California
13 Franchise Tax Board (FTB) Form 199 (California Exempt Organization Annual Information
14 Return), and related filings of financial information required to bring the Union into compliance
15 with state and federal law.

16 C. In or about April, 2007, the Union received a notice from the IRS requesting the
17 filing of IRS Form 990 for the tax years 2000, 2001, and 2003. The notice was discovered by the
18 Union's new CPA after Respondent was discharged in late 2007. Respondent was requested to
19 provide these forms to the Union, but failed to do so. Respondent did eventually provide the
20 2003 Form 990, but not the 2000 and 2001 Form 990.

21 D. The 2006 LM-2 report was the Union's first required annual filing with the United
22 States Department of Labor (The Union became subject to the annual LM-2 report requirement
23 by opening its membership to private sector employees). The due date for the report was March
24 31, 2007. Despite numerous requests from the Department of Labor, Respondent failed to
25 complete and file the report prior to his discharge. Respondent further failed to provide to the
26 Union's new CPA all documents necessary to allow him to promptly complete and file the
27 overdue 2006 LM-2 report, leaving the new CPA to prepare and file a report with prior year fixed
28 asset balances and zero depreciation.

1 E. Respondent committed multiple acts of gross negligence and/or repeated acts of
2 negligence during his engagement for the Union, as follows:

3 (1) Respondent failed to prepare and timely file IRS Form 990 for the tax
4 years 2000, 2001, and 2003.

5 (2) Respondent failed to prepare and timely file Department of Labor LM-2
6 report for the tax year 2006.

7 (3) After his discharge by the Union in late 2007, Respondent failed to
8 respond to repeated requests from and on behalf of the Union to provide copies of financial
9 documents and/or information needed for the Union's new CPA to complete and file the
10 overdue LM-2 report.

11 SECOND CAUSE FOR DISCIPLINE

12 **(Failure to Comply With Professional Standards)**

13 11. Respondent Rodriguez is subject to disciplinary action under Business and
14 Professions Code section 5062 and Title 16 of the California Code of Regulations, section 58, for
15 unprofessional conduct, due to his failure to prepare financial reports which comply with
16 professional standards in his work for client Amalgamated Transit Union Local No. 1277 for the
17 month ended July 31, 2007, as follows:

18 A. Pursuant to its investigation of the Union complaint, Board investigators
19 obtained a financial report prepared by Respondent for the month ended July 31, 2007, including
20 a balance sheet and statement of income and expenses.

21 B. American Institute of Certified Public Accountants (AICPA) professional
22 standards provide that when an accountant submits unaudited financial statements to his client
23 that are not expected to be used by a third party, he should either : (1) issue a compilation report
24 in accordance with reporting requirements or (2) document an understanding with the client
25 through use of an engagement letter, preferably signed by management, regarding the services to
26 be performed and the limitations on the use of those financial statements.

27 C. The July 2007 financial statements were not issued with a compilation report
28 and the understanding of this service was not documented with an engagement letter.

1 THIRD CAUSE FOR DISCIPLINE

2 **(Failure to Cooperate With Board Investigation)**

3 12. Respondent Rodriguez is subject to disciplinary action under Business and
4 Professions Code section 5100, subsection "g" and Title 16 of the California Code of
5 Regulations, section 52, subsections (a) and (d) for unprofessional conduct, due to his failure to
6 respond in a timely manner and with true and accurate information to Board inquiries related to
7 Respondent's work for Amalgamated Transit Union Local No. 1277, as follows:

8 16 California Code of Regulations 52(a)

9 A. Respondent failed to provide a written response within 30 days to Board
10 investigator's letters dated September 16 and 17, 2008, in which he was advised of allegations
11 under investigation and asked to respond.

12 16 California Code of Regulations 52(d)

13 B. In telephonic communications with a Board Investigator on October 3 and 15,
14 2008, Respondent stated that he would be providing the Union with the IRS Form 990 for the tax
15 years 2000 and 2001. More than six months later, at the time the investigation was completed
16 (May 29, 2009). Respondent had not provided the missing documents to the Union. Respondent
17 thus provided untrue and inaccurate information in response to the Board's inquiry.

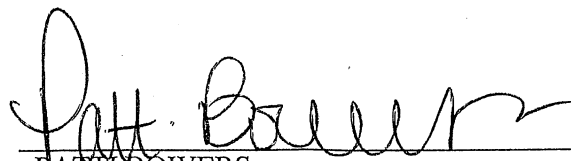
18 PRAYER

19 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
20 and that following the hearing, the California Board of Accountancy issue a decision:

- 21 1. Revoking or suspending or otherwise imposing discipline upon Certified Public
22 Accountant Certificate Number 33631, issued to Bolivar Eduardo Rodriguez;
- 23 2. Revoking or suspending or otherwise imposing discipline upon Certified Public
24 Accountancy Corporation Number 1607, issued to Stump Davis Greenberg Accountants Inc.
- 25 3. Ordering Bolivar Eduardo Rodriguez and Stump Davis Greenberg Accountants Inc.
26 to pay the California Board of Accountancy the reasonable costs of the investigation and
27 enforcement of this case, pursuant to Business and Professions Code section 5107;
- 28 4. Taking such other and further action as deemed necessary and proper.

DATED:

March 27, 2010



PATTI BOWERS
Executive Officer
California Board of Accountancy
Department of Consumer Affairs
State of California
Complainant

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